

ORDINANCE NO. 2007-42

V E T O E D

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO RO (RESIDENTIAL OFFICE DISTRICT) ACCORDING TO THE SITE PLAN DATED MARCH 11, 2007 PREPARED BY GEORGE J. LOPEZ, ARCHITECT, AND GRANTING A VARIANCE PERMIT TO ALLOW A LOT WIDTH OF 60 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED; ALLOW 10 PARKING SPACES, WHERE AT LEAST 11 PARKING SPACES ARE REQUIRED; ALLOW TWO PARKING SPACES INSIDE A GARAGE, WHERE ALL PARKING SPACES ARE TO BE LOCATED AT THE REAR OF THE PROPERTY; AND ALLOW A 12.1-FOOT WIDE, TWO-WAY DRIVEWAY, WHERE 20 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-779, 98-2189(19), 98-782 AND 98-2188b. **PROPERTY LOCATED AT 310 HIALEAH DRIVE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of March 28, 2007 recommended approval of this ordinance; and

WHEREAS, the Petitioner proffered a declaration of restrictive covenants, limiting the utilization of the garage for the sole purpose of parking and storing motor vehicles for personal use.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The petitioner proffers a declaration of restrictive covenants, limiting the use of the garage for the sole purpose of parking and storing motor vehicles for personal use, to which the City accepts.

Section 2: The below-described property is hereby rezoned from R-1 (One Family District) to RO (Residential Office District) according to the site plan prepared by George J. Lopez, Architect, and is hereby granted a variance permit to allow a lot width of 60 feet, where at least 75 feet are required; allow 10 parking spaces, where at least 11 parking spaces are required; allow two parking spaces inside a garage, where all parking spaces are to be located at the rear of the property; and allow a 12.1-foot wide, two-way driveway, where 20 feet are required, contra to Hialeah Code §§ 98-779, 98-2189(19), 98-782 and 98-2188b., which provide in pertinent part, "In the RO residential office district, . . . an average minimum width of 75 feet.", "Residential office. One parking space for each 200 square feet of gross floor area.", "All parking shall be located in the rear of the property." and "Driveways: Two-way direction 20 [feet width]", respectively. Property located at 310 Hialeah Drive, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 12, BLOCK C, REVISED PLAT OF PORTION OF
DEER PARK ADDITION, ACCORDING TO THE PLAT
THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE
41, OF THE PUBLIC RECORDS OF MIAMI-DADE
COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative

tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 24 day of April, 2007.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

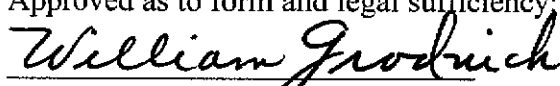


Esteban Bovo
Council President

Attest: Approved on this ____ day of _____, 2007.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

Ordinance was adopted by a 6-1 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Miel and Yedra voting "Yes" and Councilmember Hernandez voting "No".

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Mayor Julio Robaina vetoed Ordinance No. 07-42. There was no motion to override the Mayor's veto; therefore, the veto stands.

Julio Robaina

Mayor

Esteban Bovo

Council President

Carlos Hernandez

Council Vice President



Council Members

Jose F. Caragol

Vivian Casals-Muñoz

Luis Gonzalez

Cindy Miel

Jose Yedra

City of Hialeah

May 8, 2007

Dear Members of the Hialeah City Council:

In accordance with the authority vested in the Mayor of the City of Hialeah, Florida, pursuant to Hialeah Charter § 2.01(a)(7), I hereby exercise my veto over Hialeah, Fla., Ordinance 07-42 that was passed by the Hialeah City Council on April 24, 2007 for the following reasons and objections:

1. Hialeah, Fla., Ordinance 07-42 rezoned property from R-1 (One Family District) to RO (Residential Office District) and granted multiple variances, including a variance for the width of the lot, the number and placement of parking spaces and the width of the driveway, on property located at 310 Hialeah Drive, Hialeah, Florida.
2. While I have no objection to rezoning the property to RO (Residential-Office District), I object to the site plan for the timed development of this property. According to the Hialeah Code, rezoning property to Residential Office is subject to a site plan that requires the property to be developed or improved according to the site plan. The proposed site plan does not show a substantial investment and improvement of the property, but a modification of an existing two-story residence to create a residential-office on the first floor and residential use on the second floor. On Hialeah Drive, where the City and other developers have invested considerable funds to substantially improve the Hialeah Downtown Urban Center, this is not acceptable. The vision of the HDUC district is not a slight improvement to the status quo, but a commitment of property owners to invest and substantially improve their properties. The granting of multiple variances to accommodate the conversion of the current residence into a residential-office also demonstrates the unsuitability of the site. The existing structure is oversized on the narrow lot, with the narrow two-way driveway and insufficiency parking, which I foresee will create parking and traffic circulation problems.
3. After reviewing and considering the zoning history, the tapes of the meetings, the Hialeah, Fla., Comprehensive Plan, the Hialeah Downtown Urban Center regulations and Urban Design Plan for the HDUC district, site plan, radius map, survey, planner's report and considering all other relevant information, and taking notice of the property and the neighboring properties upon a site inspection, I conclude the proposed development as indicated by the site plan is inconsistent with the goals and objectives of the Hialeah Downtown Urban Center District.

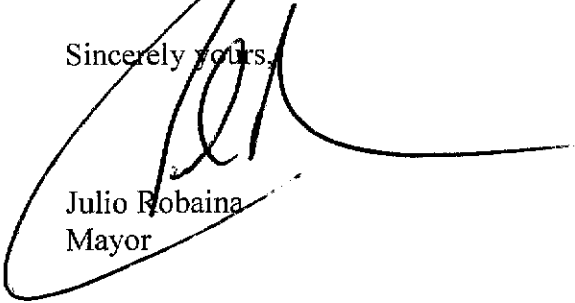
Raul L. Martinez Government Center

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www.hialeahfl.gov

Based on the foregoing and pursuant to the powers granted me under the Charter of the City of Hialeah, I hereby exercise my right to veto Hialeah, Fla., Ordinance 07-42.

Sincerely yours,



Julio Robaina
Mayor